



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231
www.uspto.gov

| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
| 09/665,367 | 09/19/2000 | Dan Kikinis | 004688.P015 | 5059 |

7590 03/10/2003

John P Ward
Blakely Sokoloff Taylor & Zafman LLP
Seventh Floor
12400 Wilshire Boulevard
Los Angeles, CA 90025-1026

EXAMINER

NGUYEN, CAO H

ART UNIT PAPER NUMBER

2173

DATE MAILED: 03/10/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/665,367

Applicant(s)

Ward

Examiner

Cao (Kevin) Nguyen

Art Unit

2173

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on RCE filed 12/26/02.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-48 is/are pending in the application.
- 4a) Of the above, claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-48 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claims _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
*See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____ 6) ☐ Other:

Art Unit: 2173

DETAILED ACTION

Continued Prosecution Application

1. The request filed on 12/26/2002 for a Continued Prosecution Application (CPA) under 37 CFR 1.53(d) based on parent Application No. 09/665,367 is acceptable and a CPA has been established. An action on the CPA follows.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1-6, 8, 10, 13-18, 20, 22, 50-53, 32, 34, 37-42, 44 and 46 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kikinis (US Patent No. 5,724,492).

Regarding claim 1, Kikinis discloses a method for displaying an Electronic Programming Guide (EPG) comprising generating a three dimensional virtual mesh polyhedron (see Abstract); polyhedron having a first object on a first plane and a second object on a second plane, objects providing interactive surfaces (see figure 7); however, Kikinis fails to explicitly teach generating a plurality of planes positioned in polyhedron, planes being approximately parallel.

Art Unit: 2173

It would have been obvious to one of an ordinary skill in the art at the time the invention was made to provide generating a plurality of planes positioned in polyhedron, planes being approximately parallel as taught by Kikinis in order to provide a methods for displaying multi-paneled menu objects.

Matthews, III et al (5,724,492) relates to the field of entertainment systems and in particular, to a method and apparatus for automatically configuring a system based on user's monitored system interaction and preferred system access times. Per claims 1, 13, 25, and 37:

Matthews, III et al ("Matthews") discloses a method for displaying a channel manager or an Electronic programming guide (see fig. 7). The method includes displaying a multi-sided or three dimensional plane surfaces ("virtual mesh polyhedron") (see fig. 7); wherein each plane surface includes objects positioned on the 3D surfaces, such as NBC object positioned on one side of the 3D surface ("first object on a first plane") and a volume object positioned on another side of the 3D surface ("second object on a second plane") (see Fig. 7) and said objects provide interactive surfaces selected by a viewer (see Fig. 7, col 19, lines 51-62). Per claims 2, 14, 26, and 38:

Matthews further discloses the channel manager could be displayed as a three dimensional object shown in perspective or orthogonal view ("isometric view") (col 15, lines 15-35). Per claims 3, 15, 27, and 39:

Art Unit: 2173

Matthews discloses a high end "PENTIUM" microprocessor that supports a graphics-intensive (such as 3D), graphics-based presentation of program-related information. The channel manager panels are presented as part of a three-dimensional structure (col 10, lines 40-59, col 12, lines 28-col 13, lines 2). Per claims 4, 16, 28, and 40:

The channel manager of Matthews provides a user interface that facilitates the browsing and selection of an items such as channels from a group of multiple items, associated with certain time (col 5, lines 52-col 6, lines 4, col 2, lines 18-39). Per claims 5, 17, 29, and 41:

Matthews provides a method and system for selecting a visible control item independently of the three dimensional plane surfaces and for supplying the user with an indication of other control items that are available for selection by the user (col 5, lines 52-col 6, lines 4). Also describes the three-dimensional menu 1005 is a collection of panels. It is used to present unique menu lists on each panel (col 17, lines 63-col 18, lines 9). Per claims 6, 18, 30, and 42:

Matthews' interactive system includes application for an electronic program guides and video on demand services, wherein certain television programs on a certain channels at a certain times are presented (col 14, lines 51-58). Per claims 8, 20, 32, and 44:

Matthews' interactive system includes a multi-sided panels which are parallel (see Fig. 7).

Per claims 10, 22, 34, and 46:

The system of Matthews employs three-dimensional images or pictures and animation to display three-dimensional object (col 20, lines 38-48).

Art Unit: 2173

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. ★ Claims 7, 9, 19, 21, 31, 33, 43, and 45 rejected under 35 U.S.C. 103(a) as being unpatentable over Matthews, 111 et al (5,724,492) and Nakano et al (6,043,818). While Matthews' interactive system includes a multi-sided panels ("virtual mesh polyhedron"), these multi-sided panels are not explicitly described as a cube. Furthermore "planes correspond to levels of preference," also not explicitly described. However, Nakano discloses interactive cubic display (claims 7, 19, 31, and 43), wherein users can activate any function in the cubic wall by clicking a button. Nakano further discloses a cubic planes arranged and displayed in four sides of a cube, wherein depending on user's preference each face of the cube can be selected to be shown or displayed in front, left, right or top of the cube (see figs. 17-21, col 15, lines 12 col 16, lines 3) (claims 9, 21, 33, and -15). Therefore, it would have been obvious to one having ordinary skill in the art at the time of the invention was made to incorporate the interactive cubic shape surface

Art Unit: 2173

planes with a multi-sided panels of Matthews'. Thus, Matthews' system will provide a viewer a preference setting of interactive objects on each cubic surface display.

9. Claims 11, 12, 23, 24, 35, 36, 47 and 48 rejected under 35 U.S.C. 103(x) as being unpatentable over Matthews, III et al (5,724,492) and Nakano et al (6,043,818), and further in view of Williams et al (5,977,964).

While Matthews and Nakano disclose an interactive cube ("virtual mesh polyhedron,") neither the cube having three axes nor the three axes of the cube correspond to time, channel, and user preference is shown. However, Williams discloses the shortcomings. Williams relates to the field of entertainment systems, wherein Williams provides a method for automatically configuring a system based on a user's monitored system interaction and preferred system access times. Fig. 9 shows a display of television schedule grid configurable option which can vary from user to user base on the user's preference. A user can select a particular portion of the grid by moving a cursor across the grid to a cell in the grid that contains the title of the program available during the displayed time period. The system also displays the channels in the grid in the order of most frequently watched (fig. 9, col 7, lines 31-col 8, lines 24). Thus the system of Williams discloses these axes corresponding to time, channel and user preference (see fig. 9) (claims 11, 12, 23, 24, 35, 36, 47 and 48).

Art Unit: 2173

Response to Amendment

10. Applicant's arguments filed 12 /26/2002 have been fully considered but they are not persuasive.

Accordingly, the Amendment as represented in the claims do not represent a patentable distinction over the art of record as discussed above.

Conclusion

4. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Response

5. Responses to this action should be mailed to: Commissioner of Patents and Trademarks, Washington, D.C. 20231. If applicant desires to fax a response, (703) 308-9051 may be used for formal communications or (703) 305-9724 for informal or draft communications.

Please label "PROPOSED" or "DRAFT" for informal facsimile communications. For after final responses, please label "AFTER FINAL" or "EXPEDITED PROCEDURE" on the document.

Hand-delivered responses should be brought to Crystal Park II, 2121 Crystal Drive, Arlington, VA. Sixth Floor (Receptionist).


Art Unit: 2173

Inquires

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Cao (Kevin) Nguyen whose telephone number is (703) 305-3972. The examiner can normally be reached on Monday-Friday from 8:30 am to 6:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John W. Cabeca, can be reached on (703) 308-3116. The fax number for this group is (703) 308-6606.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 305-3800.


CAO (KEVIN) NGUYEN
PRIMARY EXAMINER
March 5, 2003

